

August 16, 2007

DECISION AND ORDER  
OF THE DEPARTMENT OF ENERGY

*Appeal*

Name of Petitioner: Rogelio Gloria

Date of Filing: July 23, 2007

Case Number: TFA-0217

On July 23, 2007, Rogelio Gloria (the Appellant) filed an Appeal from a final determination that the Freedom of Information Act/Privacy Act Group (FOI/PA) issued on June 29, 2007, on behalf of the Energy Information Administration (EIA) of the Department of Energy (DOE). That determination concerned a request for information submitted by the Appellant pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by DOE in 10 C.F.R. Part 1004. If the present Appeal were granted, EIA would be required to conduct a further search for responsive documents.

*Background*

On May 23, 2007, the Appellant submitted a FOIA request for a “record of sale of oil from property in Long Beach, [California], and chemical composition.” Electronic mail message dated May 23, 2007, from Appellant to FOI/PA. On June 29, 2007, FOI/PA responded that EIA “conducted a search of its files and found no documents responsive to the request.” Determination Letter dated June 29, 2007, from Abel Lopez, Director, FOI/PA, to Appellant. On July 23, 2007, the Appellant appealed that determination to our Office. Appeal Letter dated July 23, 2007, from Rogelio Gloria, to Director, Office of Hearings and Appeals (OHA), DOE. In the Appeal, the Appellant states that he is surprised that the information is not readily available. He continues that “[m]ost of the information is spread out over several databases.” *Id.* He claims that the information he is requesting is needed “to run the country.” *Id.* The Appellant suggests that DOE ask various federal and state agencies and other entities for information that would allow DOE to formulate the information he is requesting. *Id.*

*Analysis*

In responding to a request for information filed under the FOIA, it is well established that an agency must “conduct a search reasonably calculated to uncover all relevant documents.” *Truitt v. Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). “The standard

of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials.” *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Truitt*, 897 F.2d at 542. We have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Glen Bowers*, 29 DOE ¶ 80,240 (January 9, 2006) (Case No. TFA-0138); *Doris M. Harthun*, 28 DOE ¶ 80,282 (April 8, 2003) (Case No. TFA-0015).<sup>1/</sup>

We contacted EIA in response to the Appellant’s request to determine what type of search was conducted. EIA responded that it contacted its only office that deals with crude oil sales data, the Dallas Field Office. The Dallas Field Office indicated that it does not collect or have detailed oil or natural gas sales information by person or property, such as was requested by the Appellant. EIA only monitors oil and natural gas fields that produce at least 400,000 barrels of crude oil or 2 billion cubic feet of gas annually. EIA asked the lead analyst, the most knowledgeable person in the Dallas Field Office, if the information the Appellant was requesting was available. After full consideration of the request, the lead analyst stated that the office does not collect or have detailed records of oil or natural gas sales by person or property, as the Appellant requested. EIA’s search of the Dallas Field Office was reasonably calculated to uncover any information relevant to the Appellant’s request. EIA asked the person with the most knowledge whether it maintains the information the Appellant was requesting. He stated that EIA does not maintain that information. Electronic Mail Messages sent August 1 and 3, 2007, from Jay Casselberry, Executive Assistant to the Administrator and Deputy Administrator, EIA, to Janet Fishman, OHA.

In his Appeal, the Appellant suggests that DOE search other agencies and entities for the information he seeks. The FOIA does not mandate that an agency conduct such a search.<sup>2/</sup> Moreover, the FOIA does not require that documents be created in response to a request. 5 U.S.C. § 552; 10 C.F.R. § 1004.4(d)(1), (2).

In evaluating the search EIA conducted, the only applicable standard is whether the agency conducted “a search reasonably calculated to uncover all relevant documents.” *Truitt*. We find that the search EIA conducted met that standard. EIA searched the only DOE office that might possess the requested information. Consequently, we find that EIA’s search was adequate under the FOIA. Accordingly, the Appeal should be denied.

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<sup>1/</sup> All OHA decisions issued after November 19, 1996 may be accessed at <http://www.oha.doe.gov/foia1.asp>.

<sup>2/</sup> To the extent the Appellant believes relevant documents are in the possession of other federal agencies, he may contact these agencies and make a FOIA request.

It Is Therefore Ordered That:

- (1) The Appeal filed by Rogelio Gloria, on July 23, 2007, Case No. TFA-0217, is hereby denied.
- (2) This is a final Order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provision of 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district where the requester resides or has a principal place of business or in which the agency records are situated or in the District of Columbia.

William M. Schwartz  
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Office of Hearings and Appeals

Date: August 16, 2007